

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals
for the Second Circuit, held at the Daniel Patrick Moynihan
United States Courthouse, 500 Pearl Street, in the City of
New York, on the 18th day of March, two thousand eight.

PRESENT:

HON. ROSEMARY S. POOLER,
HON. ROBERT D. SACK,
HON. DEBRA ANN LIVINGSTON,
Circuit Judges.

GUO LIANG ZHENG,
Petitioner,

v.

U.S. ATTORNEY GENERAL,
Respondent.

07-3093-ag
NAC

FOR PETITIONER: Liu Yu, New York, New York.

1 **FOR RESPONDENTS:** **Jeffrey S. Bucholtz, Acting**
2 **Assistant Attorney General, Civil**
3 **Division; Linda S. Wendtland,**
4 **Assistant Director; Ashley B. Han,**
5 **Attorney, Office of Immigration**
6 **Litigation, U.S. Department of**
7 **Justice, Washington, D.C.**
8

9 UPON DUE CONSIDERATION of this petition for review of a
10 Board of Immigration Appeals ("BIA") decision, it is hereby
11 ORDERED, ADJUDGED, AND DECREED that the petition for review
12 is DENIED.

13 Petitioner Guo Liang Zheng, a citizen of the People's
14 Republic of China, seeks review of a June 29, 2007 order of
15 the BIA affirming the September 21, 2005 decision of
16 Immigration Judge ("IJ") Paul A. Defonzo denying Zhang's
17 application for asylum, withholding of removal, and relief
18 under the Convention Against Torture ("CAT"). *In re Guo*
19 *Liang Zheng*, No. A 96 401 403 (B.I.A. June 29, 2007), *aff'g*
20 No. A 96 401 403 (Immig. Ct. N.Y. City, Sept. 21, 2005). We
21 assume the parties' familiarity with the underlying facts
22 and procedural history of this case.

23 When the BIA affirms the IJ's decision in all respects
24 but one, this Court reviews the IJ's decision as modified by
25 the BIA decision, i.e., "minus the single argument for
26 denying relief that was rejected by the BIA." *Xue Hong Yang*

1 *v. U.S. Dep't of Justice*, 426 F.3d 520, 522 (2d Cir. 2005).
2 We review the agency's factual findings, including adverse
3 credibility determinations, under the substantial evidence
4 standard, treating them as "conclusive unless any reasonable
5 adjudicator would be compelled to conclude to the contrary."
6 8 U.S.C. § 1252(b)(4)(B); *see, e.g., Manzur v. U.S. Dep't of*
7 *Homeland Sec.*, 494 F.3d 281, 289 (2d Cir. 2007) (quoting
8 section 1252 (b)(4)(B) (internal quotation marks omitted)).
9 However, we will vacate and remand for new findings if the
10 agency's reasoning or its fact-finding process was
11 sufficiently flawed. *Cao He Lin v. U.S. Dep't of Justice*,
12 428 F.3d 391, 406 (2d Cir. 2005).

13 As an initial matter, issues not sufficiently argued in
14 the briefs are considered waived and normally will not be
15 addressed on appeal in the absence of manifest injustice.
16 *Yueqing Zhang v. Gonzales*, 426 F.3d 540, 545 n.7 (2d Cir.
17 2005). Because Zheng has failed to challenge the denial of
18 his application for CAT relief before this Court, and
19 because addressing this argument does not appear to be
20 necessary to avoid manifest injustice, we deem any such
21 challenge to be waived.

22 We conclude that the IJ's adverse credibility

1 determination is supported by substantial evidence. The IJ
2 reasonably based it on the fact that although Zheng
3 testified that he was beaten by family planning officials,
4 he failed to mention this incident in his asylum application
5 or during either his credible fear or airport interviews.
6 The IJ also properly based the determination on the
7 inconsistency between Zheng's testimony and his asylum
8 application regarding when he allegedly learned that his
9 girlfriend had been subjected to a forced abortion. These
10 discrepancies are central to Zheng's claims for relief
11 because they relate directly to his assertion that he was
12 persecuted for violating China's family planning policy.
13 *See Secaida-Rosales v. INS*, 331 F.3d 297, 308-09 (2d Cir.
14 2003). Therefore, the IJ properly relied on them as bases
15 for his adverse credibility determination.

16 There were further inconsistencies. The IJ reasonably
17 found that Zheng's testimony that his national
18 identification card was confiscated in August 2004, and
19 never returned, was inconsistent with his submission of an
20 identification card which states that it was issued in
21 August 2000. In addition, the IJ concluded that Zheng's
22 testimony was internally inconsistent as to when he learned
23 of the legal age for marriage in China. Zheng initially

1 testified that he was unaware that he had not reached the
2 legal age for marriage until the family planning officials
3 arrived on his wedding day, but later testified that his
4 parents informed him of the legal age for marriage at the
5 time he told them that his girlfriend was pregnant. These
6 discrepancies, although arguably minor, further undermine
7 Zheng's credibility. See *Tu Lin v. Gonzales*, 446 F.3d 395,
8 402 (2d Cir. 2006). Zheng was given the opportunity to
9 explain these inconsistencies and omissions, but the IJ
10 reasonably rejected his explanations. *Majidi v. Gonzales*,
11 430 F.3d 77, 80-81 (2d Cir. 2005).

12 Accordingly, the agency's adverse credibility
13 determination is supported by substantial evidence. *Zhou*
14 *Yun Zhang v. INS*, 386 F.3d 66, 73 (2d Cir. 2004), *overruled*
15 *in part on other grounds*, *Shi Liang Lin v. U.S. Dep't of*
16 *Justice*, 494 F.3d 296 (2d Cir. 2007) (en banc). Because the
17 only evidence of a threat to Zheng's life or freedom
18 depended on his credibility, the adverse credibility finding
19 is fatal to both his asylum and withholding of removal
20 claims. See *Paul v. Gonzales*, 444 F.3d 148, 156 (2d Cir.
21 2006).

22 We find no merit in Zheng's claim that his due process

1 rights were violated because he was not provided with
2 competent translation during his hearing before the IJ.
3 Zheng cites to several cases addressing the issue of
4 competent translation. See e.g., *Wang He v. Ashcroft*, 328
5 F.3d 593, 598 (9th Cir. 2003); *Arulampalam v. Ashcroft*, 353
6 F.3d 679, 694 (9th Cir. 2003). However, he fails to present
7 any evidence demonstrating that there were significant
8 translation problems during his hearing, or that they
9 interfered with his ability to testify effectively. There
10 is thus no indication of a due process violation. See *Li*
11 *Hua Lin v. U.S. Dep't of Justice*, 453 F.3d 99, 104 (2d Cir.
12 2006).

13 Having decided that Zheng's petition fails in any
14 event, we need not and do not decide the extent to which *Shi*
15 *Liang Lin* would otherwise have an impact on the viability of
16 his petition.

17 For the foregoing reasons, the petition for review is
18 DENIED. Having completed our review, we DENY the pending
19 motion for a stay of removal as moot.
20

21 FOR THE COURT:
22 Catherine O'Hagan Wolfe, Clerk
23
24

25 By: _____
26